

RESOLUTION 2011-4

AUTHORIZING THE GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY TO ENTER INTO A PURCHASE AND SALE AGREEMENT IN THE AMOUNT OF SIXTY THOUSAND DOLLARS (\$60,000) WITH LITTLE BUDDY PROPERTIES, LLC TO SELL CUYAHOGA COUNTY AUDITOR'S PERMANENT PARCEL NUMBER 118-06-019 WHICH IS LOCATED AT 6809 EUCLID AVENUE IN CLEVELAND, OHIO ("PROPERTY") AND TO DECLARE IT EXCESS REAL PROPERTY

WHEREAS, the Board of Trustees of the Greater Cleveland Regional Transit Authority approved the purchase of the Property (ECTP Parcel 187) under Resolution 2005-092 on July 19, 2005 for the Euclid Corridor Transportation Project now called the HealthLine; and

WHEREAS, title to the Property transferred to the Greater Cleveland Regional Transit Authority on August 24, 2005; and

WHEREAS, the Greater Cleveland Regional Transit Authority is the owner of record of the Property; and

WHEREAS, the Property was used as a construction staging area during the Euclid Corridor Transportation Project and a portion of the Property is now improved with roadway, sidewalk, and tree lawn and encumbered by a permanent roadway easement; and

WHEREAS, the Property is no longer required for the construction of the HealthLine and is excess to the Authority; and

WHEREAS, the Greater Cleveland Regional Transit Authority has posted a for sale sign on the Property and has advertised and marketed the Property through a fair and open process with Ostendorf-Morris Company since October 28, 2008; and

WHEREAS, Little Buddy Properties, LLC wishes to purchase the Property for an economic development project; and

WHEREAS, the Greater Cleveland Regional Transit Authority has had the Property appraised and the current appraised value of the Property is Forty Five Thousand Dollars (\$45,000); and

WHEREAS, Little Buddy Properties, LLC has offered to purchase the Property for Sixty Thousand Dollars (\$60,000); and

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Greater Cleveland Regional Transit Authority, Cuyahoga County, Ohio:

Section 1. The Property is hereby declared excess property.

Section 2. That the General Manager/Secretary-Treasurer is hereby authorized to execute a Purchase and Sale Agreement and all other documents required to sell and transfer the Property.

Section 3. That the purchase price of Sixty Thousand Dollars (\$60,000) is higher than the fair market value of the Property as determined by the property appraisal report and approved by a review appraiser.

Section 4. That the purchase price less closing and brokerage fees shall be deposited in the Greater Cleveland Regional Transit Authority Development Fund and that the appraised value of the Property shall be remitted to the Federal Transit Administration unless it allows the funds to be used for a similar project.

Section 5. That the sale is subject to Federal Transit Administration concurrence.

Section 6. That this resolution shall become effective immediately upon its adoption.

Attachment: Map and Legal Description (Attachment A)

Adopted: January 18, 2011



President

Attest: 

CEO, General Manager/Secretary-Treasurer

RX250
Rev. 04/03

PID
PARCEL
CTY-RTE-SEC
Version Date

187WD
GCRТА-PROJ.38-CO5
June 15, 2004

**PARCEL 187 -WD
GCRТА- PROJ. 38-CO5
ALL RIGHT, TITLE AND INTEREST IN FEE SIMPLE
IN THE FOLLOWING DESCRIBED PROPERTY
WITHOUT LIMITATION OF EXISTING ACCESS RIGHTS**

Grantor/Owner, for himself and his heirs, executors, administrators, successors and assigns, reserves all existing rights of ingress and egress to and from any residual area. (as used herein, the expression "Grantor/Owner" includes the plural, and words in the masculine include the feminine or neuter.)

Situated in the City of Cleveland, County of Cuyahoga, State of Ohio, and being known as a part of Original 100 Acre Lot 338, also being the land conveyed to The Carmen DiGeronimo Limited Partnership by Instrument No. 200208020896 on file in the Cuyahoga County Recorder's Office and being a parcel of land lying on the left side of the centerline of right of way and construction of Euclid Avenue bounded and described as follows;

Commencing the intersection of the centerline of the right of way and construction of Euclid Avenue (Station 238+39.20) with the centerline of right of way and construction of East 69th Street (Station 50+00.00) said intersection being referenced by a stone with drill hole found in a monument box on the centerline of right of way and construction of East 69th Street bearing North 01° 06' 48" West, 40.04 feet; thence along said centerline North 01° 06' 48" West, 40.10 feet to the northerly right of way of Euclid Avenue at 40.00 feet left of centerline of right of way and construction of Euclid Avenue Station 238+36.27 and centerline of right of way and construction of East 69th Street Station 50+40.11; thence North 86° 55' 22" West along said northerly right of way, 18.55 feet to the westerly right of way of East 69th Street at 40.00 feet left of centerline of right of way and construction of Euclid Avenue Station 238+17.72 and 18.50 feet left of centerline of right of way and construction of East 69th Street Station 50+41.46, said point being witnessed by an iron pin set 20.05 feet distant bearing North 01° 06' 48" West on said westerly line of East 69th Street, said point being the **True Point of Beginning** for the parcel herein described;

- 1.) Thence North 86° 55' 22" West along said northerly right of way, 65.91 feet to the southeast corner of land conveyed to Dunham Tavern Museum by Volume 89-1571, Page 38 on file in the Cuyahoga County Recorder's Office at 40.00 feet left of centerline of right of way and construction of Euclid Avenue Station 237+51.81;
- 2.) Thence leaving said right of way, North 01° 06' 48" West along the easterly of said land conveyed to Dunham Tavern Museum, 91.38 feet to an iron pin set at the southwest corner of Parcel 1 of lands conveyed to The Carmen DiGeronimo Limited Partnership by Instrument No. 200210250681 on file in the Cuyahoga County Recorder's Office at 131.14 feet left of centerline of right of way and construction of Euclid Avenue Station 237+45.14, said line passing through an iron pin set 10.03 feet distant northerly from the northerly right of way of Euclid Avenue;
- 3.) Thence North 88° 53' 12" East along the centerline of a covered alley, 65.73 feet to an iron pin set on the westerly right of way of East 69th Street at 135.94 feet left of centerline of right of way and construction of Euclid Avenue Station 238+10.69 and 18.50 feet left of centerline of right of way and construction of East 69th Street Station 51+37.66;
- 4.) Thence South 01° 06' 48" East along said right of way, 96.20 feet to the point of beginning.

Containing within said bounds 0.1415 acres of land in Parcel 118-06-019.

RX250
Rev. 04/03

Page 2 of 2
PID
PARCEL 187WD
CTY-RTE-SEC GCRTA-PROJ.38-CO5
Version Date June 15, 2004


All iron pins set are 30" x 5/8" capped rebar labeled KS ASSOCS INC PROP MARKER.
Bearings are based on Ohio State Plane, North Zone NAD83 (1995) Grid North.

The stations referred to herein are from the centerline of right of way and construction of
Euclid Avenue and the centerline of right of way and construction of East 69th Street.

This description was prepared by KS Associates, Inc. under the supervision of Mark A.
Yeager, Professional Surveyor, Ohio No. 7289.

Date:

6/15/04


Mark A. Yeager, P.S. 7289





Greater Cleveland Regional Transit Authority
STAFF SUMMARY AND COMMENTS

TITLE/DESCRIPTION: CONTRACT: SALE OF 6809 EUCLID AVENUE AND DECLARING IT EXCESS PROPERTY VENDOR: LITTLE BUDDY PROPERTIES, LLC AMOUNT: \$60,000	Resolution No.: 2011-4
	Date: January 13, 2011
	Initiator: Programming and Planning
ACTION REQUEST: <input checked="" type="checkbox"/> Approval <input type="checkbox"/> Review/Comment <input type="checkbox"/> Information Only <input type="checkbox"/> Other _____	

- 1.0 **PURPOSE/SCOPE:** The purpose of selling the property at 6809 Euclid Avenue and declaring it excess real property is to remove excess real estate from RTA's real property inventory as required by applicable federal regulations and to facilitate an economic development project in the Midtown neighborhood of the City of Cleveland.
- 2.0 **DESCRIPTION/JUSTIFICATION:** RTA purchased this property from The Carmen Digeronimo Limited Partnership for \$140,000 in August 2005 for the construction of the Euclid Corridor Transportation Project. This property was known as ECTP Parcel 187 during the project. Federal funds were used for the acquisition and the Uniform Act was followed. The site was acquired for roadway purposes and construction staging. The acquisition price included an 11,000 square foot building that RTA demolished so that the roadway could be re-aligned. A portion of this land is now covered with roadway, sidewalk, and tree lawn and encumbered by a permanent roadway easement. During construction, the remaining land was used as a construction staging area.
- The property is no longer needed for RTA operations and is, therefore, excess property to the Authority. RTA has had it listed with a real estate broker for sale since October 28, 2008. Several parties were bidding for the property and Little Buddy Properties, LLC was the highest bidder. The purchaser is also buying adjacent property and will construct a restaurant on the larger consolidated lot. This use fits with MidTown Cleveland and the City of Cleveland's master plan for the area as well as RTA's goals for economic development along the corridor. The deed from RTA will contain a restriction against parking on this parcel so that RTA's land is not used for a parking lot.
- 3.0 **PROCUREMENT BACKGROUND:** Does Not Apply.
- 4.0 **DBE/AFFIRMATIVE ACTION BACKGROUND:** Does Not Apply.
- 5.0 **POLICY IMPACT:** Does Not Apply.
- 6.0 **ECONOMIC IMPACT:** The purchase price is above the fair market value of the property as determined by an appraisal and concurred with by a review appraisal report. The Federal Transit Administration must approve the disposition of the property and the use of the proceeds of the sale. FTA regulations allow for program income to be reinvested in the capital program of the Agency in a "like" activity. On December 22, 2010 RTA submitted a request letter to the FTA seeking approval to dispose of this excess property and to use the proceeds in a like activity.
- 7.0 **ALTERNATIVES:** The Authority can refuse to sell the property to Little Buddy Properties, LLC. RTA would maintain this vacant property until another purchaser is found.

**Staff Summary And Comments
6809 Euclid Avenue Property Sale**

Page 2

- 8.0 RECOMMENDATION: Staff recommends that the Board of Trustees approve the resolution to authorize the sale of this property to Little Buddy Properties, LLC and to declare it excess real property.
- 9.0 ATTACHMENTS: Purchase and Sale Agreement

Recommended and certified as appropriate to the availability of funds, legal form and conformance with the Procurement requirements



CEO, General Manager/Secretary-Treasurer

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is made as of _____, 2010, by and between Little Buddy Properties, LLC. ("Purchaser"), 18011 Saint James Place, Auburn Township, Ohio 44023, an Ohio Limited Liability Company, and the GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY, ("Seller"), 1240 West 6th Street, Cleveland, Ohio 44113, a political subdivision of the State of Ohio, entered into under the authority of Seller's Resolution No. _____ adopted _____, 2010 a copy of which is attached to and incorporated into this Agreement as Exhibit A.

RECITALS

In consideration of the mutual covenants and promises contained in this Agreement and other good and valuable consideration, the receipt of which is acknowledged by this Agreement, the parties to this Agreement agree as follows:

1. AGREEMENT OF PURCHASE AND SALE

Seller agrees to sell to Purchaser and Purchaser agrees to purchase the following described property ("Property") from Seller in accordance with the terms contained in this Agreement:

- a. All of Seller's right, title, and interest in the Property described in Exhibit B, attached to and incorporated into this Agreement;
- b. All of Seller's right, title, and interest in any improvements affixed to the Property;
- c. All rights, privileges, entitlements, easements, and appurtenances pertaining to the Property and Improvements, including any right, title, and interest of Seller in and to adjacent streets, alleys, or rights-of-ways;
- d. All plans, drawings, specifications, surveys, deed and other real estate records, engineering reports, operating manuals and technical literature, wherever located, relating to the matters described in items a. through c. above, if any.

Purchaser's agreement to purchase is subject to (1) the successful transfer of the adjoining parcel (118-06-067) to purchaser with an anticipated closing date of 90 days from August 20, 2010; (2) purchaser's financing contingency from SBA and a commercial lender in conjunction with the said purchase agreement for adjoining parcel; and (3) completion of Phase I & II environmental assessments, as necessary.

Purchaser acknowledges the sale of Property is subject to (1) an approximately seven hundred forty (740) square feet permanent easement for sidewalks and Euclid Avenue roadway improvements; (2) Federal Transit Administration and Seller's Board of Trustee approval; and (3) a deed restriction prohibiting parking on the Property.

For the purposes of this Agreement the "Effective Date" shall mean the date this Agreement is signed by Seller or the date this Agreement is signed by Purchaser, whichever is later.

2. CONSIDERATION



The purchase price for the Property (the "Purchase Price") shall be Sixty Thousand Dollars (\$60,000.00). Earnest money in amount of one thousand dollars (\$1,000.00), in hand, to apply on the Purchase Price, the receipt of which is hereby acknowledged, and is to be held in trust by the Seller's Real Estate Broker or deposited with the Escrow Agent until the transaction is complete. The balance shall be paid by Purchaser to Seller at Closing (as defined in Section 6 of this Agreement). Said earnest money shall only be returned to the Purchaser if the Seller is unable to attain approvals from Federal Transit Administration or Seller's Board of Trustees needed to sell the Property. If this transaction is not consummated for any other reason the earnest money shall not be returned to the Purchaser.

3. TITLE INSURANCE

Within five days after the Effective Date, Purchaser shall, in its own name, request that **U.S. Title Agency, Inc., 1111 Chester Avenue, 400 Park Plaza, Cleveland, Ohio 44114 Attn: Michael Gerome (PH: 216-621-1424)** (in such capacity referred to as the "Title Company") provide to Purchaser a current commitment for an Owner's Policy of ALTA Title Insurance in a form commonly accepted in Ohio (the "Commitment"). The Commitment shall be in an amount equal to the fair market value of the Property (but in no event less than Sixty Thousand Dollars (\$60,000) showing marketable fee simple title to the Property to be in Seller's name free and clear of all liens and encumbrances except: (i) those created by or to be assumed by Purchaser; (ii) those specifically set forth in this Agreement; (iii) zoning ordinances; (iv) general and special real estate taxes and assessments that are a lien on the date of Closing (as defined in Section 6 of this Agreement), but are not yet due and payable; (v) legal highways; and (vi) all exceptions, if any, to title and all items on the public record. Purchaser shall have 30 days from the date of receipt of the Commitment ("Review Period") to review the Commitment and notify Seller in writing of its objections to the Commitment. If Purchaser fails to provide to Seller its written objections to the Commitment within said Review Period, Purchaser shall be deemed to have approved the Commitment, and any exceptions to title to the Purchaser shall be deemed to be "Permitted Exceptions". If Purchaser timely objects to any matters shown on the Commitment, then Seller shall have the right to correct said matters objected to by Purchaser. If Seller fails, unless the cure only involves the payment of money (e.g., payment of judgment lien, etc.) which Seller shall be required to do, or is unable to correct said title matters and if Purchaser and Seller are unable to resolve all title matters objected to by Purchaser on or before the expiration of the Contingency Period (as defined in Section 5), then Purchaser shall have the right to (i) terminate this Agreement, in which event, except as may otherwise expressly be provided in this Agreement, the parties shall be relieved of all further liability under this Agreement, or (ii) accept title to the Property, whereupon such unresolved title matters shall be included as Permitted Exceptions, or (iii) accept such title as Seller is able to convey, with a reduction in the Purchase Price equal to the amount necessary to cure a defect in title which may be cured by the payment of money as described above. The Purchaser shall pay the cost of the Commitment.

4. DOCUMENTS TO BE PROVIDED

Within 30 days after the Effective Date, Purchaser, in its own name, shall request an ALTA/ACSM survey of the Property to be prepared by a licensed surveyor ("Survey"). Said Survey shall be reasonably acceptable to, and certified to, Purchaser and the Title Company in sufficient detail to provide the basis for an ALTA Owner's Policy of Title Insurance without boundary, encroachment or survey exceptions, and shall show the location of all easements and improvements (including underground improvements) and any and all other pertinent

A handwritten signature in blue ink, appearing to be the initials 'JF', is located in the bottom right corner of the page.

information with respect to the Property typically included in an "as built" survey. The Purchaser shall pay the expense of the Survey.

5. PURCHASER'S CONTINGENCIES

This Agreement is expressly contingent upon Purchaser's satisfaction, in Purchaser's sole discretion, with the results of Purchaser's review and investigation of the Property including its own assessment of the Environmental Condition of the Property, the Commitment and the Survey.

Purchaser shall have until 60 days from the Effective Date ("Contingency Period") to review all of the foregoing and to perform any investigations it desires to make as to the matters contained in this Agreement and to conduct any other due diligence related to Purchaser's intended use of the Property, including the inspections and tests of the Property contemplated in Section 15. Purchaser shall have the right to cause an earlier expiration of the Contingency Period by written notice to Seller.

In the event Purchaser is satisfied with all documents and the results of said investigations and other matters, the above contingencies shall be deemed waived by Purchaser. In the event Purchaser is not satisfied with any document or any portion of the results of said investigation or other matters, it shall deliver to Seller written notice of such dissatisfaction on or before expiration of the Contingency Period and this Agreement shall be null and void and of no further effect on both parties.

6. CLOSING

The consummation of the transactions contemplated in this Agreement ("Closing") shall be accomplished through an escrow established with the U.S. Title Agency, Inc. (in such capacity referred to as the "Escrow Agent"). This Agreement shall constitute the escrow instructions, subject only to the Escrow Agent's Standard Conditions of Acceptance of Escrow; provided, however, that the provisions of this Agreement shall govern in the event of any conflicts with Escrow Agent's Standard Conditions. All of the documents referred to in this Agreement shall be executed and delivered into Escrow at **U.S. Title Agency, Inc., 1111 Chester Avenue, 400 Park Plaza, Cleveland, Ohio 44114 Attn: Michael Gerome (PH: 216-621-1424)**. The Closing shall be completed when the parties have deposited with the Escrow Agent all documents and funds required in this Agreement to be deposited with the Escrow Agent, and all conditions precedent set forth in this Agreement have been satisfied (the "Closing Date"), but in no event later than February 1, 2011, unless extended by the mutual agreement of the parties.

7. INSTRUMENTS OF CONVEYANCE

Seller shall deposit with the Escrow Agent, on or prior to the Closing Date, the following fully executed documents:

- a. A general warranty deed conveying marketable fee simple title to the Property, subject only to Permitted Exceptions and deed restriction prohibiting parking on the Property ("Deed"); and



- b. Counterpart closing statements; and
- c. Such other documents as are reasonably necessary for the Title Company to insure in Purchaser fee simple title to the Property; and
- d. Agency Disclosure Document.

Purchaser shall deposit or cause to be deposited with the Escrow Agent, on or prior to the Closing Date, the following fully executed documents and funds:

- a. Evidence of transfer of the adjoining parcel (118-06-067) to Purchaser: Financing contingency from SBA and a commercial lender in conjunction with the said purchase; and a Phase I & II environmental assessment; and
- b. A perpetual easement from Purchaser to Seller on the Property for the approximately seven hundred forty (740) square feet for sidewalks and Euclid Avenue roadway improvements substantially in the same form as Exhibit C; and
- c. The Purchase Price, subject to the closing adjustments contemplated in this Agreement; and
- d. Counterpart closing statements; and
- e. Such other documents as are reasonably necessary for the Title Company to insure in Purchaser fee simple title to the Property.

8. **PRORATIONS AND CLOSING ADJUSTMENTS**

The following items pertaining to the Property shall be credited as follows:

- a. N/A - There are no utilities at the Property to be prorated.
- b. Real estate taxes and assessments, both general and special, against or encumbering the Property ("Taxes") shall be prorated as of the Closing Date on the basis of the most recent ascertainable amounts of each such item.
- c. Seller shall pay or be charged with the following costs and expenses in connection with this transaction: (i) one-half (1/2) of all transfer taxes and conveyance fees on the sale and transfer of the Property; (ii) one-half (1/2) of the escrow fee and (iii) one-half (1/2) of the cost of recording the Deed.
- d. Purchaser shall pay or be charged with the following costs and expenses in connection with this transaction: (i) the cost of examining title to the Property, issuing the Commitment and the premium for the ALTA Owner's Fee Policy of Title Insurance in the amount of the Purchase Price ("Policy"); (ii) the premium for any endorsements requested by Purchaser to the ALTA Owner's Fee Policy of Title Insurance; (iii) one-half (1/2) of all transfer taxes and conveyance fees on the sale and transfer of the Property; (iv) one-half (1/2) of the escrow fee; and (v) one-half (1/2) of the cost of recording the Deed.



9. **DELIVERY AND PAYMENT**

Upon Closing, the Escrow Agent shall deliver to Seller the following:

- a. The Purchase Price; and
- b. Counterpart closing statements executed by Purchaser, Seller and Escrow Agent; and
- c. Time-stamped copy of the Deed.

Upon Closing, the Escrow Agent shall deliver to Purchaser the following:

- a. The original Deed (after recordation); and
- b. Counterpart closing statements executed by Purchaser, Seller and Escrow Agent; and
- c. The Title Policy.

10. **WARRANTIES AND REPRESENTATIONS OF SELLER**

With reference to the Property, Seller represents and warrants that each of the following is true and correct on the Effective Date and as of the Closing Date.

- a. **Authority.** Seller is the sole owner of the Property and possesses all right, authority, and power to execute and perform this Agreement. This Agreement has been duly executed by Seller and is enforceable against Seller in accordance with its terms. Seller represents and warrants that no consents or waivers are required to permit consummation of the transactions contemplated by this Agreement.
- b. **Documents Relating to the Condition of the Property.** To Seller's actual knowledge, the Seller has made available to Purchaser for inspection all documents and reports of which it is aware either appraising the Property or identifying the condition of the Property relating to hazardous waste or materials, industrial hygiene or the environmental conditions on, under or about the Property. Seller shall be under no obligation to obtain for the Purchaser any document or report relating to the Property which is not in the Seller's possession, but if Seller is aware of any, will disclose same to Purchaser in writing and will work with Purchaser to obtain copies of the same.
- e. **No Undisclosed Claims or Liabilities.** To Seller's actual knowledge, there are no suits, judgments, litigation, or claims against, with respect to, or affecting the Property or the zoning or use, pending, other than those that are a matter of record or disclosed by Seller to Purchaser in writing.
- f. **Taxes/Assessments.** Seller has paid in full all taxes and assessments on the Property that have become due through the date hereof, the Property is not subject



to any lien for payment of taxes other than general property taxes and assessments constituting a lien but not yet payable.

g. Environmental Conditions

- (a) The term "Environmental Claim" shall mean any claim, demand, suit, order, complaint, summons, citation, notice, directive, consent agreement, litigation, judgment, or other legal or administrative action or proceeding from any governmental agency, department, bureau, office or other authority, or any third party, involving violations of Environmental Laws or Releases of Hazardous Substances.
- (b) The term "Loss" shall mean any loss, cost or expenses for environmental site assessments, remedial investigation and feasibility studies, natural resources damages, property damage, bodily injury), damage or liability (including strict liability).

Notification of Environmental Claims or Conditions. If Seller shall become aware of or receive notice or other communication concerning any Environmental Claim or Environmental Condition prior to Closing then Seller shall deliver to the Purchaser, within ten days of the receipt of such notice or communication by Seller, a written description of said Environmental Claim or Environmental Condition, together with copies of any documents evidencing same to the Seller.

11. WARRANTIES AND REPRESENTATIONS OF PURCHASER

Purchaser possesses all right, authority, and power to execute and perform this Agreement, which has been duly executed by Purchaser and is enforceable against Purchaser in accordance with its terms. Purchaser shall not interfere with the operation of the Property, as it conducts the inspections and tests authorized under this Agreement. Purchaser covenants and agrees that each representation and warranty contained in this Agreement by or on behalf of Purchaser shall survive the execution and delivery of this Agreement, the recordation of the Deed and transfer of title. Purchaser covenants and agrees that its purchase is to be with knowledge of the fact that (a) Seller does not warrant the accuracy and/or completeness of documents and information provided by Seller under this Agreement regarding the condition of the Property; and (b) Purchaser's shall base its assessment of such condition solely upon its appraisal of such documents and information and the results of Purchaser's review and investigation of the Property including its own assessment of the Environmental Condition of the Property, the Commitment and the Survey and; (c) Purchaser shall purchase the Property "As is" and shall and hereby does release Seller and hold it harmless regarding any Environmental Claims.

12. RIGHT OF ENTRY

By execution of this Agreement, Seller grants to Purchaser for the duration of the Contingency Period a license on, under, through, over, across, and to the Property for the purposes of surface and subsurface investigation, environmental testing, and inspection of the Property's suitability for the Purchaser's intended uses. Any testing, inspections or other investigation performed by Purchaser pursuant to this Section ~~12~~ shall be at Purchaser's sole cost and expense, and Purchaser agrees to be liable for any damage or claim regarding

damage to the property loss of life or damage or injury to any person or property or any person, including, without limitation, the agents, employees, invitees and licensees of either of the parties as a result of Purchaser's investigation, testing or inspection of the Property pursuant to this Section 12. The license granted pursuant to this Section 12. includes any easements that Seller may have that are necessary to access the Property, along with the following rights and limitations:

- a. Purchaser may enter upon all portions of the Property provided reasonable notice is given to the party in possession.
- b. Purchaser may conduct tests of air, water, soil, and wastes.
- c. Purchaser may conduct soil borings, including the right to enter upon the Property with all personnel, drilling rigs and associated equipment, and electronic and mechanical testing equipment necessary to complete Purchaser's inspection.
- d. Purchaser may remove reasonable samples of air, water, soil, and liquid or solid wastes as are necessary to complete Purchaser's inspection, provided that such removal does damage to the Property or any other property.
- e. Unless otherwise agreed in writing, Purchaser's inspection will be carried out during normal business hours and will be completed during the Contingency Period.
- f. The right of entry shall be assignable to the Purchaser's contractor, subcontractors and agents so long as the same agree to be bound by Purchaser's covenants contained in this Agreement.
- g. Purchaser shall require its contractor, subcontractors and agents to defend, indemnify and hold harmless the Seller, Seller's officers, agents, employees, successors and assigns from any and all claims, loss, cost, damages, expense and liability, including attorneys' fees, for or from loss of life or damage or injury to any person or property of any person, including, without limitation, the agents, employees, invitees and licensees of either of the parties arising out of, connected with or incidental to, either directly or indirectly, with Purchaser's entry, investigation, testing or assessment of the Property during this right of entry. This indemnification requirement shall survive the expiration or termination of this Agreement.

13. **NOTICES AND COMMUNICATIONS**

All notices, consents, requests, demands and other communications required by this Agreement shall be in writing and shall be deemed to have been duly given to a party if mailed by certified mail.

If to the Seller, to:

The Greater Cleveland Regional Transit Authority
1240 West 6th Street
Cleveland, Ohio 44113
Attn: CEO, General Manager/Secretary-Treasurer



With a copy to:

The Greater Cleveland Regional Transit Authority
1240 West 6th Street
Cleveland, Ohio 44113
Attn: Senior Counsel-Contracts and Real Estate

And a copy to:

Ostendorf-Morris Company
1100 Superior Ave., Ste 800
Cleveland, Ohio 44114
Attn: Peter Farina

If to the Purchaser, to:

Little Buddy Properties, LLC.
18011 Saint James Place
Auburn Township, OH 44023
Attn: John G. Frost

A handwritten signature in black ink, appearing to be 'JG Frost', located in the bottom right corner of the page.

14. **BROKERAGE COMMISSION**

Seller has retained OM Partners LLC, dba Ostendorf-Morris Company, as real estate broker. Seller shall be exclusively responsible for all fees and commissions owed to said broker and Seller shall hold Purchaser harmless from any claim for a broker's fee or commission.

Purchaser has retained CRM, Inc. as real estate broker. Purchaser shall be exclusively responsible for all fees and commissions owed to said broker and Purchaser shall hold Seller harmless from any claim for a broker's fee or commission.

15. **GOVERNING LAW**

This Agreement was negotiated in the State of Ohio and shall be governed and construed in accordance with the internal laws of the State of Ohio.

16. **INTEGRATION; MODIFICATION; WAIVER**

This Agreement constitutes the complete and final expression of the agreement of the parties relating to the Property and supersedes all previous contracts, agreements and understandings of the parties, either oral or written, relating to the Property. This Agreement cannot be modified, or any of the terms waived, except by an instrument in writing (referring specifically to this Agreement) executed by the party against whom enforcement of the modification or waiver is sought.

17. **COUNTERPART EXECUTION**

This Agreement may be executed in several counterparts, each of which shall be fully effective as an original and all of which together shall constitute one and the same instrument.

18. **INVALID PROVISIONS**

If any one or more of the provisions of this Agreement, or the applicability of any such provision to a specific situation, shall be held invalid or unenforceable, such provision shall be modified to the minimum extent necessary to make it or its application valid enforceable, and the validity and enforceability of all other provisions of this Agreement and all other application of any such provision shall not be affected by it.

19. **BINDING EFFECT**

This Agreement shall be binding upon and inure to the benefit of Seller and Purchaser and their respective successors and assigns. Notwithstanding the above, (a) any assignment by Purchaser of its rights under this Agreement shall require the prior written approval of Seller and include an assumption by such assignee of all Purchaser's obligations under this Agreement, (b) no such assignment shall be effective unless an executed copy of same is delivered to Seller at least five days prior to the Closing Date, and (c) no such assignment shall relieve Purchaser of any obligations under this Agreement.

20. **FURTHER ACTS**



In addition to the acts recited in this Agreement to be performed by Seller and Purchaser, Seller and Purchaser agree to perform or cause to be performed at the Closing or after the Closing any and all such further acts as may be reasonably necessary to consummate the transactions contemplated by this Agreement.

THE PARTIES have executed this Agreement as of the Effective Date.

SELLER: THE GREATER CLEVELAND REGIONAL
TRANSIT AUTHORITY


By: _____
Name: Joseph A. Calabrese
Title: General Manager/Secretary-
Treasurer

Date: _____, 2010

The legal form and correctness
of this instrument is approved:

Name: Sheryl King Benford
Title: General Counsel, Deputy
General Manager for Legal Affairs

PURCHASER: LITTLE BUDDIES PROPERTIES, LLC

By: 
Name: JOHN G. FROST
Title: MEMBER

Date OCTOBER 8, 2010



Exhibit A

[Copy of The Greater Cleveland Regional Transit Authority Resolution]

Exhibit B

[Legal Description of Property]

RX250
Rev. 04/03

PID
PARCEL
CTY-RTE-SEC
Version Date

187WD
GCRTA-PROJ.38-CO5
June 15, 2004

**PARCEL 187 -WD
GCRTA- PROJ. 38-CO5
ALL RIGHT, TITLE AND INTEREST IN FEE SIMPLE
IN THE FOLLOWING DESCRIBED PROPERTY
WITHOUT LIMITATION OF EXISTING ACCESS RIGHTS**

Grantor/Owner, for himself and his heirs, executors, administrators, successors and assigns, reserves all existing rights of ingress and egress to and from any residual area. (as used herein, the expression "Grantor/Owner" includes the plural, and words in the masculine include the feminine or neuter.)

Situated in the City of Cleveland, County of Cuyahoga, State of Ohio, and being known as a part of Original 100 Acre Lot 338, also being the land conveyed to The Carmen DiGeronimo Limited Partnership by Instrument No. 200208020896 on file in the Cuyahoga County Recorder's Office and being a parcel of land lying on the left side of the centerline of right of way and construction of Euclid Avenue bounded and described as follows;

Commencing the intersection of the centerline of the right of way and construction of Euclid Avenue (Station 238+39.20) with the centerline of right of way and construction of East 69th Street (Station 50+00.00) said intersection being referenced by a stone with drill hole found in a monument box on the centerline of right of way and construction of East 69th Street bearing North 01° 06' 48" West, 40.04 feet; thence along said centerline North 01° 06' 48" West, 40.10 feet to the northerly right of way of Euclid Avenue at 40.00 feet left of centerline of right of way and construction of Euclid Avenue Station 238+36.27 and centerline of right of way and construction of East 69th Street Station 50+40.11; thence North 86° 55' 22" West along said northerly right of way, 18.55 feet to the westerly right of way of East 69th Street at 40.00 feet left of centerline of right of way and construction of Euclid Avenue Station 238+17.72 and 18.50 feet left of centerline of right of way and construction of East 69th Street Station 50+41.46, said point being witnessed by an iron pin set 20.05 feet distant bearing North 01° 06' 48" West on said westerly line of East 69th Street, said point being the **True Point of Beginning** for the parcel herein described;

- 1.) Thence North 86° 55' 22" West along said northerly right of way, 65.91 feet to the southeast corner of land conveyed to Dunham Tavern Museum by Volume 89-1571, Page 38 on file in the Cuyahoga County Recorder's Office at 40.00 feet left of centerline of right of way and construction of Euclid Avenue Station 237+51.81;
- 2.) Thence leaving said right of way, North 01° 06' 48" West along the easterly of said land conveyed to Dunham Tavern Museum, 91.38 feet to an iron pin set at the southwest corner of Parcel 1 of lands conveyed to The Carmen DiGeronimo Limited Partnership by Instrument No. 200210250681 on file in the Cuyahoga County Recorder's Office at 131.14 feet left of centerline of right of way and construction of Euclid Avenue Station 237+45.14, said line passing through an iron pin set 10.03 feet distant northerly from the northerly right of way of Euclid Avenue;
- 3.) Thence North 88° 53' 12" East along the centerline of a covered alley, 65.73 feet to an iron pin set on the westerly right of way of East 69th Street at 135.94 feet left of centerline of right of way and construction of Euclid Avenue Station 238+10.69 and 18.50 feet left of centerline of right of way and construction of East 69th Street Station 51+37.66;
- 4.) Thence South 01° 06' 48" East along said right of way, 96.20 feet to the point of beginning.

Containing within said bounds 0.1415 acres of land in Parcel 118-06-019.

RX250
Rev. 04/03

PID
PARCEL
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All iron pins set are 30" x 5/8" capped rebar labeled KS ASSOCS INC PROP MARKER. Bearings are based on Ohio State Plane, North Zone NAD83 (1995) Grid North.

The stations referred to herein are from the centerline of right of way and construction of Euclid Avenue and the centerline of right of way and construction of East 69th Street.

This description was prepared by KS Associates, Inc. under the supervision of Mark A. Yeager, Professional Surveyor, Ohio No. 7289.

Date:

6/15/04

Mark A. Yeager
Mark A. Yeager, P.S. 7289



Exhibit C

[Permanent Roadway Easement from Purchaser to Seller]

**PARCEL 187-SH
GCRTA-PROJ. 38-CO5
PERPETUAL EASEMENT FOR HIGHWAY PURPOSES
WITHOUT LIMITATION OF EXISTING ACCESS RIGHTS**

An exclusive perpetual easement for public highway and road purposes, including, but not limited to any utility construction, relocation and/or utility maintenance work deemed appropriate by the Greater Cleveland Regional Transit Authority and the City of Cleveland, its successors and assigns forever.

Grantor/Owner, for himself and his heirs, executors, administrators, successors and assigns, reserves all existing rights of ingress and egress to and from any residual area. (as used herein, the expression "Grantor/Owner" includes the plural, and words in the masculine include the feminine or neuter).

Situated in the City of Cleveland, County of Cuyahoga, State of Ohio, and being known as a part of Original 100 Acre Lot 338, being also part of the land conveyed to The Carmen DiGeronimo Limited Partnership by Instrument No. 200208020896 on file in the Cuyahoga County Recorder's Office and being a parcel of land lying on the left side of the centerline of right of way and construction of Euclid Avenue bounded and described as follows;

Beginning at the intersection of the northerly right of way of Euclid Avenue and the westerly right of way of East 69th Street at 40.00 feet left of centerline of right of way and construction of Euclid Avenue Station 238+17.72 and 18.50 feet left of centerline of right of way and construction of East 69th Street Station 50+41.46;

- 1) Thence North 86° 55' 22" West along said northerly right of way, 65.91 feet to the southwest corner of the grantor at 40.00 feet left of centerline of right of way and construction of Euclid Avenue Station 237+51.81;
- 2) Thence leaving said right of way, North 01° 06' 48" West along the easterly of land conveyed to Dunham Tavern Museum by Volume 89-1571, Page 38 on file in the Cuyahoga County Recorder's Office, 10.03 feet to a point 50.00 feet left of centerline of right of way and construction of Euclid Avenue Station 237+51.08;
- 3) Thence leaving said line South 86° 55' 22" East, 55.88 feet to a point 50.00 feet left of centerline of right of way and construction of Euclid Avenue Station 238+06.96 and 28.50 feet left of centerline of right of way and construction of East 69th Street Station 50+52.22;
- 4) Thence North 45° 58' 55" East, 13.65 feet to a point on the westerly line of East 69th Street at 60.00 feet left of centerline of right of way and construction of Euclid Avenue Station 238+16.26 and 18.50 feet left of centerline of right of way and construction of East 69th Street Station 50+61.52;
- 5) Thence South 01° 06' 48" East along said right of way, 20.05 feet to the point of beginning.

Containing within said bounds 0.0163 acres of land Parcel 118-06-019.

Bearings are based on Ohio State Plane, North Zone NAD83 (1995) Grid North.

The stations referred to herein are from the centerline of right of way and construction of Euclid Avenue and the centerline of right of way and construction of East 69th Street.

This description was prepared by KS Associates, Inc. under the supervision of Mark A. Yeager, Professional Surveyor, Ohio No. 7289.

Date:

6/15/04

Mark A. Yeager
Mark A. Yeager, S. 7289

